

2-O-18

AN ORDINANCE

Authorizing the City Manager to Execute a Lease of Property Located at 2525 Church Street for Recreational Uses

WHEREAS, the Metropolitan Water Reclamation District of Greater Chicago owns certain real property located at 2525 Church Street, Evanston, Illinois, which is improved with a single story concrete block building and former Shore School site and total property square footage is 113,069 square feet (2.59 acres) (the "Property"); and

WHEREAS, Beck Park lies directly to the north of the Property and the City seeks to demolish the building and extend Beck Park south to Church Street, creating greater recreational opportunities; and

WHEREAS, the Parties have negotiated a long-term lease of the Property to preserve the property for recreational uses for 50-years; and

WHEREAS, the City Council has determined that the Property is necessary for future City operations and in the City's best interests,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: The foregoing recitals are hereby found as fact and incorporated herein by reference.

SECTION 2: Pursuant to Subsection 1-17-4-1 of the Evanston City Code of 2012, as amended (the "City Code"), the City Manager is hereby authorized and directed to execute, on behalf of the City of Evanston, a 50--year lease agreement by

and between the City of Evanston and the Metropolitan Water Reclamation District of Greater Chicago. The Lease Agreement shall be in substantial conformity with the Lease Agreement attached hereto as Exhibit "1" and incorporated herein by reference.

SECTION 4: Pursuant to Subsection 1-17-4-2-(B) of the Evanston City Code, 2012, as amended (the "City Code"), an affirmative vote of two-thirds ($\frac{2}{3}$) of the elected Aldermen is required to accept the recommendation of the City Manager on the lease agreement authorized herein.

SECTION 5: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 6: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.


SECTION 8: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Ayes: 7

Nays: 0

Introduced: January 8th, 2018

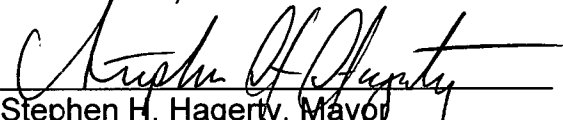
Adopted: January 8th, 2018

Attest: 

Devon Reid, City Clerk


Approved:

January 16, 2018



Stephen H. Hagerty, Mayor

Approved as to form:



W. Grant Farrar, Corporation Counsel

EXHIBIT 1
LEASE AGREEMENT

DOCUMENT PREPARED BY AND AFTER
RECORDING, RETURN TO:

Metropolitan Water Reclamation District
Of Greater Chicago
Law Department/Real Estate Division
100 E. Erie St.
Chicago, IL 60611
Attn: Mark L. Dressel

P.I.N.s: 10-14-227-009(PT)
10-14-227-015(PT)

This space reserved for recorder's use only.

REV. 4-10-17

LEASE AGREEMENT
(Governmental Form)

THIS INDENTURE, made this 4th day of January 2018, by and between the METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO, a body corporate and politic organized and existing under the laws of the State of Illinois, with principal offices at 100 East Erie Street, Chicago, Illinois 60611 (hereinafter designated the "Lessor"), and the CITY OF EVANSTON, an Illinois municipal corporation with principal offices at 2100 Ridge Avenue, Evanston, Illinois 60201 (hereinafter designated the "Lessee").

WITNESSETH THAT:

ARTICLE ONE

1.01 PREMISES LEASED

Lessor, for and in consideration of the rents hereinafter reserved and of the covenants and agreements hereinafter contained, does hereby demise and lease unto said Lessee all of the Premises legally described and depicted in the plat of survey marked Exhibit "A" which is attached hereto and made a part hereof and generally depicted in the aerial photograph marked Exhibit "B" which is attached hereto and

made a part hereof, located in the County of Cook and State of Illinois for those purposes, as more specifically described in Article Three, Paragraph 3.07 hereof, pursuant to 70 ILCS 2605/8 and 8c consisting of 2.58 acres of improved real estate and commonly known as: 2525 Church Street, Evanston, Illinois, North Shore Channel Parcel 3.04.

For the purposes of this Lease, the terms "Leased Premises, Leasehold Premises, Demised Premises," or similar terms may be used interchangeably, and shall be used synonymously to mean the real property which is the subject hereof and any improvements located thereon at the time of leasing or placed thereon by Lessee during the term of this Lease.

1.02 TERM OF LEASE

The term of this Lease is 50 years, beginning on the 1st day of February A.D., 2018, and ending on the 31st day of January A.D., 2068, unless said term shall end sooner under the provisions hereof.

ANYTHING CONTAINED IN THIS LEASE TO THE CONTRARY NOTWITHSTANDING, THIS LEASE IS TERMINABLE BY LESSOR IN ACCORDANCE WITH SERVICE UPON LESSEE OF A ONE-YEAR NOTICE TO TERMINATE AFTER DETERMINATION BY THE BOARD OF COMMISSIONERS AND EXECUTIVE DIRECTOR OF LESSOR THAT THE DEMISED PREMISES (OR PART THEREOF) HAS BECOME ESSENTIAL TO THE CORPORATE PURPOSES OF LESSOR. IN SUCH EVENT, ANY RENT DUE SHALL BE ABATED IN DIRECT PROPORTION TO THE AREA RECOVERED HEREUNDER AS COMPARED TO THE AREA OF THE ORIGINAL LEASEHOLD.

1.03 LEASE EXECUTED BY LESSOR WITHOUT WARRANTIES

It is expressly covenanted and agreed by the parties hereto that Lessor executes and delivers this Lease without representation or warranties concerning Lessor's title to the Premises and authority to execute this Lease, the size of the Demised Premises, the useable areas of the Demised Premises, and building and zoning laws affecting the Demised Premises. Lessee has examined the title to the Demised Premises and Lessor's authority to enter into this Lease, the size of the Demised Premises, and the useable areas of the Demised Premises, and is satisfied therewith. Lessee has further examined the building and zoning laws concerning the Demised Premises and is satisfied that he may construct the improvements which are hereinafter set forth in Section 6.01 of this Lease and that said Lessee may use the Demised Premises in accordance with the uses set forth in Section 3.07 of this Lease:

- A. In the event on the date hereof or any time hereafter, the building and zoning laws do not permit the use set forth in Section 3.07 hereof or the construction set forth in Section 6.01 hereof, Lessee agrees, at its own expense within one (1) year of the date of this Lease, to take such action as may be necessary to obtain such zoning change and building permits;

- B. The failure of Lessee to obtain such zoning change as may be necessary and/or such building permit within one (1) year of the date of this Lease, shall be cause for immediate cancellation of this Lease, at the option of Lessor, provided, however, in this event, all rents due or coming due hereunder shall abate as of the date of the cancellation of this Lease pursuant to this subsection.

1.04 EFFECT OF CONDEMNATION OF DEMISED PREMISES

It is expressly covenanted by the parties hereto that in the event of any condemnation of the Demised Premises herein leased, or any part thereof, the entire condemnation award shall be the sole property of Lessor, except for the actual value of the improvements made by Lessee during this Lease as of the date of the final judgment order in said condemnation proceedings; that Lessee shall be entitled only to a decrease in the rent reserved by percentage in relation to the whole tract to the part taken; and in the event the whole tract is taken or so much of the tract is taken as to prohibit the operation or use of the Demised Premises by Lessee for the purpose set forth in Section 3.07 hereof on the portion remaining impracticable, Lessee shall be entitled to the cancellation of this Lease.

ARTICLE TWO

2.01 RENT AND ADDITIONAL COMPENSATION

Lessee covenants and agrees, in consideration of the leasing of the Premises aforesaid, to pay to Lessor as rent for the said Demised Premises:

(If Lessee is paying a one-time fee, use the following; otherwise use A, B, C, & D)

- A. Lessee covenants and agrees, in consideration of the leasing of the Demised Premises aforesaid, to pay to Lessor, as rent for the Demised Premises, a sum of Ten and No/100 Dollars (\$10.00), payable upon the execution of this Lease Agreement.

E. ADDITIONAL COMPENSATION -- (NON-RENT):

- (1) Cash: In addition to the foregoing cash rent to be paid by Lessee to Lessor, Lessee shall pay in cash to Lessor 0 percent (0 %) of the gross revenues generated by Lessee's use of or activities on the Demised Premises.

On each anniversary of the effective date of this Lease, Lessee shall furnish to Lessor an audited and

certified statement of all items of income attributable to Lessee's use of the Demised Premises and simultaneously remit its check to Lessor in an amount equal to the aforesaid percentage multiplied by the audited and certified statement for that one-year period. All such audited and certified statements shall be subject to confirmation by Lessor. Lessee shall furnish all original books and records or certified copies thereof necessary to confirm such statements, upon reasonable demand by Lessor, at no cost to Lessor.

- (2) **Services:** In the event Lessee is engaged in the business of solid waste disposal (whether on the Demised Premises or elsewhere), as additional consideration for the granting of this Lease, Lessee covenants and agrees to collect from those facilities and installations of Lessor, as designated by Lessor's Executive Director, transport and dispose of 0 tons/cu. yds. of Lessor's solid waste, including, but not limited to dewatered sludge, grit, screenings refuse, and other non-hazardous solid wastes, in a lawful manner, at Lessee's sole cost, risk, and expense.

NOTE: THE VALUE OF ADDITIONAL COMPENSATION REQUIRED TO BE PAID FOR SERVICES PERFORMED BY LESSEE PURSUANT TO THIS SUBPARAGRAPH E SHALL NOT BE CONSIDERED IN DETERMINING THE HIGHEST RESPONSIBLE BIDDER FOR LEASE AWARD PURPOSES.

- F. In addition, Lessee shall pay all administrative and legal costs incurred by Lessor in collecting any arrearage in rent including, but not limited, to payment for legal work for the preparation of lawsuits and for the issuance of notices.

ARTICLE THREE

GENERAL PROVISIONS

3.01 INTEREST ON RENT NOT PAID WHEN DUE

Lessee agrees that any and all installments of rent accruing under the provisions of this Lease, which shall not be paid when due, shall bear interest at the rate of two percent (2%) per annum in excess of the prime rate charged by a principal bank in Chicago, Illinois, to its commercial borrowers as determined on the first date of a delinquency from the day when the same is or are payable by the terms of this

Lease, until the same shall be paid; provided if any installment or installments of said rent shall become due on a Sunday or legal holiday the same shall be paid without interest on the next succeeding regular business day.

3.02 RENT RESERVED TO BE LIENS ON ALL BUILDINGS, ETC. ERECTED ON DEMISED PREMISES

It is agreed by Lessee that the whole amount of rent reserved and agreed to be paid for the Demised Premises and each and every installment thereof shall be and is hereby declared to be a valid lien upon all buildings and other improvements on the Demised Premises or that may at any time be erected, placed, or put on the Demised Premises by Lessee and upon the interest of said Lessee in this Lease and in the Demised Premises hereby leased.

3.03 FORCIBLE COLLECTION OF RENT BY LESSOR NOT TO AFFECT RELEASE OF OBLIGATIONS

It is expressly understood and agreed that the forcible collections of the rent by any legal proceedings or otherwise by Lessor or any other action taken by Lessor under any of the provisions hereof, except a specific termination or forfeiture of this Lease, shall not be considered as releasing Lessee from its obligation to pay the rent as herein provided for the entire period of this Lease.

3.04 WAIVER OF COUNTERCLAIM

In the event Lessor commences any legal proceedings for non-payment of rent, forcible detainer, or violation of any of the terms hereof, Lessee will not interpose any counterclaim or set off of any nature or description in any such proceedings.

3.05 RIGHT OF LESSOR TO RE-ENTER DEMISED PREMISES UPON EXPIRATION OF NOTICE

It is understood and agreed by and between the parties hereto that if Lessee shall default in the payment of any of the rent herein provided for upon the day the same becomes due and payable, and such default shall continue for thirty (30) days after notice thereof in writing given by Lessor or its agent or attorneys to Lessee in the manner hereinafter provided, or in case Lessee shall default in or fail to perform and carry out any of the other covenants and conditions herein contained, and such default or failure shall continue for ninety (90) days after notice thereof and provided that Lessee has not initiated corrective action with respect to the default which is the subject of said notice within the initial thirty (30) days of said notice in writing given in like manner, then and in any and either of such events, it shall and may be lawful for Lessor, at its election, at or after the expiration of said thirty (30) days or said ninety (90) days (as the case may be) after the giving of said notice to declare said term ended, either with or without process of law, to re-enter, to expel, remove, and put out Lessee or any other person or persons occupying the Demised Premises, using such force as may be necessary in so doing, and repossess and restore Lessor to its

first and former estate, and to distraint for any rent that may be due thereon upon any of the property of Lessee located on the Demised Premises, whether the same shall be exempt from execution and distress by law or not; and Lessee, for itself and its assigns, in that case, hereby waives all legal right, which it now has or may have, to hold or retain any such property, under any exemption laws now in force in this State, or any such property, under any exemption laws now in force in this State, or in any other way; meaning and intending hereby to give Lessor, its successors and assigns, a valid lien upon any and all the goods, chattels or other property of the Lessee located on the Demised Premises as security for the payment of said rent in a manner aforesaid. And if at the same time said term shall be ended at such election of Lessor, its successors or assigns, or in any other way, Lessee for itself and its successors and assigns, hereby covenants and agrees to surrender and deliver up said Premises and property peaceably to Lessor, its successors or assigns, immediately upon the termination of said term as aforesaid; and if Lessee or the successors or assigns of Lessee shall remain in possession of the same on the day after the termination of this Lease, in any of the ways above named, it shall be deemed guilty of a forcible detainer of the Demised Premises under the statutes and shall be subject to all the conditions and provisions above named, and to eviction and removal, forcible or otherwise, with or without process of law, as above stated.

3.06 LESSEE TO PAY TAXES, ASSESSMENTS AND WATER RATES

As a further consideration for granting this Lease, Lessee further covenants, promises and agrees to bear, pay and discharge (in addition to the rent specified) on or before the penalty date, all water rates, taxes, charges for revenue and otherwise, assessments and levies, general and special, ordinary and extraordinary, of any kind whatsoever, which may be taxed, charged, assessed, levied or imposed upon the Demised Premises or upon any and all of which may be assessed, levied or imposed upon the Demised Premises estate hereby created and upon the reversionary estate in said Demised Premises during the term of this Lease.

And it is further understood, covenanted and agreed by the parties hereto that all of said water rates, taxes, assessments and other impositions shall be paid by said Lessee before they shall respectively become delinquent, and in any case within adequate time to prevent any judgment, sale or forfeiture. Lessee shall submit to Lessor proof of payment of the real estate tax applicable to the Demised Premises property within sixty (60) days of the date said tax is due.

3.07 USE OF DEMISED PREMISES

It is understood that the Demised Premises are to be used by said Lessee exclusively for public recreational purposes or other public purposes, in this instance, and for no other purpose whatsoever.

3.08 PROHIBITED USES AND ACTIVITIES

Lessee specifically agrees not to use the said Demised Premises or any part thereof, or suffer them to be used for tanneries, slaughter houses, rendering establishments, or for any use of similar character or for gambling in any form, or for the conducting thereon of any business which shall be unlawful. Lessee also specifically agrees that no alcoholic beverages of any kind shall be sold, given away, or consumed with the knowledge and consent of Lessee on the Demised Premises unless this Lease is for a term of more than twenty (20) years and then only with the prior written consent of Lessor's Board of Commissioners and the furnishing of dram shop insurance or other applicable insurance protection, with respect to such activities with policy limits, form and carrier approved by Lessor and naming Lessor, its Commissioners, officers, agents and employees as additional insureds, said insurance shall provide that said policy shall not be canceled without twenty (20) days advance written notice thereof, in addition to any insurance provided pursuant to paragraph 4.03 for which Lessor is the named insured. Hunting and the manufacture, sale, distribution, discharge, and unauthorized use of guns and firearms on the leasehold premises is expressly prohibited.

3.09 LESSEE TO YIELD UP DEMISED PREMISES, ETC., UPON EXPIRATION OF LEASE AND DEMOLISH ANY IMPROVEMENTS IF NOTIFIED BY LESSOR

Lessee agrees at the expiration of the term hereby created or the termination of this Lease under the provisions hereof, to yield up said Demised Premises, together with any buildings or improvements which may be constructed or placed upon the Demised Premises, except for the building currently located on the Demised Premises, which was previously used by Shore Community Services, Inc., which will be demolished, pursuant to Article Ten, to Lessor in as good condition as when said buildings or improvements were constructed or placed thereon, ordinary wear and tear excepted. Lessee agrees to remove any and all storage tanks from the Demised Premises including aboveground and belowground storage tanks and restore the Demised Premises to TACO Tier I Residential Standards set forth in 35 IAC 742.500 and as may be amended prior to the expiration of the Lease. Lessee agrees to remove any and all asbestos contained on Demised Premises, prior to the expiration of the Lease, including but not limited to, asbestos contained in any fixture, improvements or buildings located on the Demised Premises. One-hundred-twenty (120) days prior to the expiration of this Lease, Lessor will determine which, if any, improvements on the Demised Premises shall be demolished. Lessee will, upon receipt of ninety (90) days advance written notice, demolish at Lessee's sole cost and expense, the improvements identified by Lessor. It is expressly understood that Lessor's failure to make said determination one-hundred-twenty (120) or more days prior to the expiration of this Lease, or provide notice herein within said ninety (90) days, shall in no way act as a waiver of Lessee's obligation to demolish or remove such improvements at Lessee's sole cost and expense upon receiving written notice from Lessor. Should Lessee fail to demolish the improvements after notice, Lessor will have these improvements demolished and Lessee will be required to pay all costs therefor. This requirement survives expiration or termination of this Lease Agreement.

3.10 FAILURE OF LESSOR TO INSIST ON PROVISIONS NO WAIVER

Lessee covenants and agrees that if Lessor shall one or more times waive its right to insist upon prompt and satisfactory performance according to the terms of this Lease of any of the obligations of Lessee, no such waiver shall release Lessee from its duty promptly and strictly to satisfy at all times after such waiver each and every obligation arising under the provisions of this Lease, and especially any of such provisions with respect to which such waiver may previously have been made by Lessor as aforesaid; and Lessee covenants and agrees that if Lessor shall for any length of time waive any right or rights accruing to Lessor under the provisions of this Lease, such waiver shall be construed strictly in Lessor's favor and shall not estop Lessor to insist upon any rights, subsequently accruing to it under this Lease not in terms specifically waived; and Lessee covenants and agrees that if Lessee violates any of the obligations under this Lease, no waiver by Lessor of its right to take advantage of such violation shall estop Lessor from insisting upon its strict rights in case of and as to any subsequent violation by Lessee of the same or any other obligation; and Lessee covenants and agrees that this provision of this Lease shall apply especially (but not exclusively) to the right of Lessor to require prompt payment of the rent in this Lease and that neither acceptance by Lessor of any payment of any other unpaid installment or installments of rent, nor any endorsement or statement on any check or letter accompanying any check or payment be deemed an accord and satisfaction and Lessor may accept such check or payment without prejudice to Lessor's right to recover the balance of rent or pursue any other remedy provided in this Lease.

3.11 VARIOUS RIGHTS, CUMULATIVE, ETC.

Lessee agrees that the various rights and remedies of Lessor contained in this Lease shall be construed as cumulative, and no one of them as exclusive of the other or exclusive of any rights or remedies allowed by law, and that the right given in this Lease to Lessor to collect any additional rent, monies or payments due under the terms of this Lease by any proceedings under this Lease or the right herein given Lessor to enforce any of the terms and provisions of this Lease, shall not in any way affect the right of Lessor to declare this Lease terminated and the term hereby created ended, as herein provided, upon the default of Lessee, or failure of Lessee to perform and carry out, all of the provisions in this Lease provided to be performed and carried out by Lessee.

3.12 RIGHT TO MORTGAGE LEASEHOLD PREMISES INTEREST

- A. Lessee is hereby expressly given the right at any time and from time to time, to mortgage its leasehold interest in the Demised Premises, by mortgage or trust deed, but any such mortgage or trust deed shall in no way create any lien or encumbrance on the fee of the Demised Premises and the interest of Lessor therein and the interest of Lessor in any improvements which may be placed

on the Demised Premises by Lessee; and it is further mutually covenanted and agreed that the mortgagee or trustee in any such mortgage or trust deed and the holder or owner of the indebtedness secured by said mortgage or trust deed shall not personally liable upon the covenants in the Lease unless and until it or its assignee(s) shall acquire the Demised Premises estate created by this Lease. It is further covenanted and agreed that any mortgage or trust deed must be paid in full and a duly executed and recordable release thereof issued therefor prior to the expiration of the term of said Lease.

- B. DEMISED PREMISES MORTGAGEE - TAX ESCROW:** If any Demised Premises Mortgagee while the holder of any Leasehold Mortgage with respect to the Demised Premises shall require Lessee to deposit with such Demised Premises Mortgagee the amounts necessary to pay the general real estate taxes and/or special assessments against the Demised Premises pursuant to Paragraph 3.06 hereof, Lessee may make such deposits directly with said Mortgagee, provided, however, that such Demised Premises Mortgagee or Lessee shall notify Lessor of said requirement in advance of Lessee's making the first such deposit and Lessee or Lessee's Mortgagee documents to Lessor's satisfaction the fact of the establishment and annual maintenance of the required escrow deposits hereunder. In any event, where Lessee is required to deposit with the Demised Premises Mortgagee the amounts necessary to pay the general real estate taxes and/or special assessments, the same to be paid as and when the same become due and payable, and Lessee shall cause to be delivered to Lessor the receipted bills or photostatic copies thereof showing such payment within thirty (30) days after such receipted bills shall have been received by Lessee.

3.13 DISCLOSURE OF LEASE TO COUNTY TAX ASSESSOR AND RECORDING OF LEASE WITH THE RECORDER OF DEEDS

Within thirty (30) days from the effective date of this Lease, Lessee shall deliver to the Assessor of the County in which the Demised Premises are situated a copy of this Lease so that said Assessor can take such steps as he determines necessary to subject the interest of Lessee to general real estate taxation and will record this Lease with the Recorder of Deeds of the county in which the Demised Premises are situated.

3.14 NO NUISANCE PERMITTED

Lessee covenants and agrees not to maintain any nuisance on the Demised Premises or permit any noxious odors to emanate from the Demised Premises which shall be in any manner injurious to or endanger the health, safety and comfort of the persons residing or being in the vicinity of the Demised Premises.

3.15 DEMISED PREMISES TO REMAIN CLEAN AND SANITARY

Lessee covenants and agrees to keep the Demised Premises in a clean and sanitary condition in accordance with all applicable laws, ordinances, statutes and regulations of the county, city, village, town, or municipality (wherein the Demised Premises are located), the State of Illinois, the United States of America, and the Metropolitan Water Reclamation District of Greater Chicago.

3.16 LESSEE SHALL ABIDE BY LAW

Lessee covenants and agrees that it shall abide by any and all applicable laws, ordinances, statutes and regulations of the county, city, village, town, or municipality (wherein the Demised Premises are located), the State of Illinois, the United States of America, and enforcement and regulatory agencies thereof and the Metropolitan Water Reclamation District of Greater Chicago which regulate or control the Demised Premises, Lessee and/or Lessee's use of the Demised Premises.

ARTICLE FOUR

4.01 INDEMNIFICATION

Lessee for itself, its executors, administrators, successors and assigns agrees to and does hereby expressly assume all responsibility for and agrees to defend, indemnify, save and keep harmless Lessor, its Commissioners, officers, agents, servants, and employees against any claim (whether or not meritorious), loss, damage, cost or expense which Lessor, its Commissioners, officers, agents, servants and employees may suffer, incur or sustain or for which it may become liable, growing out of any injury to or death of persons or loss or damage to property which shall at any time during the term of this Lease be caused by or in connection with the use, occupancy or possession of the Demised Premises, and for any such loss, damage, cost or expense which shall at any time during the term of this Lease be caused by or in the performance of any work or construction, installation, maintenance, removal or repair of any buildings or structures placed upon the Demised Premises, whether the same be caused by the negligence of Lessee, any contractor employed by Lessee, or by the negligence of Lessor, its Commissioners, officers, agents, employees or contractors or as a penalty or claim for the sale or giving away of any intoxicating liquors on or about the Demised Premises, or the use of the Demised Premises for illegal or immoral purposes. In case any action, suit or suits shall be commenced against Lessor growing out of any such claim, loss, damage, cost or expense, Lessor may give written notice of the same to Lessee, and thereafter Lessee shall attend to the defense of the same and save and keep harmless Lessor from all expense, counsel fees, costs, liabilities, disbursements, and executions in any manner growing out of, pertaining to or connected therewith.

4.02 INDEMNIFICATION AGAINST MECHANICS LIENS

Lessee agrees to indemnify, save and keep harmless Lessor of and from any claims for mechanics' liens by reason of any construction work, repairs, replacements or other work or for any improvements made to or placed upon the Demised Premises by or in behalf of Lessee or at Lessee's instance.

4.03 INSURANCE

A. Lessee, prior to entering upon the Demised Premises and using the same for the purposes for which this Lease is granted, shall procure, maintain and keep in force at Lessee's expense, public liability property damage insurance in which Lessor, its Commissioners, officers, agents, and employees are a named insured and fire and extended coverage and all risk property insurance in which Lessor is named as the Loss Payee from a company to be approved by Lessor. ("CLAIMS MADE" policies are unacceptable). Each afore-referenced policy shall have limits of not less than:

COMPREHENSIVE GENERAL LIABILITY
Combined Single Limit Bodily Injury Liability
Property Damage Liability
(Including Liability for Environmental Contamination of Adjacent Properties)
in the amount of not less than \$4,000,000.0 per occurrence
and
ALL RISK PROPERTY INSURANCE
(Including Coverage for Environmental Contamination
of Demised Premises)
in the amount of not less than \$4,000,000.0 per occurrence
INCLUDING
FIRE AND EXTENDED COVERAGE
in an amount not less than the replacement cost of improvements
located on the Demised Premises

Prior to entering upon said Demised Premises, Lessee shall furnish to Lessor certificates of such insurance or other suitable evidence that such insurance coverage has been procured and is maintained in full force and effect. Upon Lessor's written request, Lessee shall provide Lessor with copies of the actual insurance policies within ten (10) days of Lessor's request for same. Such certificates and insurance policies shall clearly identify the Demised Premises and shall provide that no change, modification in or cancellation of any insurance shall become effective until the expiration of thirty (30) days after written notice thereof shall have been given by the insurance company to Lessor. The provisions of this paragraph shall in no wise limit the liability of Lessor as set forth in the provisions of 4.01 above; or

B. If Lessee is a self-insurer, Lessee, prior to entering upon said premises and using the same for the purposes for which this Lease is granted, shall prepare and transmit to the District an acknowledged statement that Lessee is a self-insurer, and that it undertakes and promises to insure the District, its Commissioners, officers,

agents, servants and employees on account of risks and liabilities contemplated by the indemnity provisions of this Agreement (Article Four, paragraph 4.03) above; and that such statement is issued in lieu of policies of insurance or certificates of insurance in which the District, its Commissioners, officers, agents, servants and employees would be a named or additional insured, and that it has funds available to cover those liabilities in the respective amounts therefor, as set forth as follows:

COMPREHENSIVE GENERAL LIABILITY
Combined Single Limit Bodily Injury Liability
Property Damage Liability (Including Liability for Environmental Contamination of
Adjacent Properties)
in the amount of not less than \$4,000,000.00
per Occurrence

and

ALL RISK PROPERTY INSURANCE
(Including Coverage for Environmental Contamination
of Demised Premises)
in the amount of not less than \$4,000,000.00
per Occurrence.

This statement shall be signed by such officer or agent of Lessee having sufficient knowledge of the fiscal structure and financial status of Lessee, to make such a statement on behalf of Lessee and undertake to assume the financial risk on behalf of Lessee and will be subject to the approval of the District.

4.04 INSURANCE ON IMPROVEMENTS

Lessee shall keep any buildings and improvements erected, constructed or placed on the Demised Premises fully insured to the replacement cost thereof against loss by explosion, fire and/or windstorm or other casualty loss for their full replacement cost at Lessee's own expense at all times during the term of this Lease by an insurance company or companies approved by Lessor. Lessor shall be a named insured on all of said insurance policies and a certificate of insurance evidencing same shall be provided to Lessor and kept current at all times throughout the term of this Lease. All policies of insurance indemnifying against such loss by explosion, fire and/or windstorm so insured shall be payable to Lessor, as additional security for the payment of rent and the performance by Lessee of the covenants herein; said policy or policies to be delivered to Lessor as soon as issued, provided, however, that in the event of loss to or destruction of said buildings and other improvements, the insurance proceeds received by Lessor in excess of the amounts then due for rent and charges under the provisions of this Lease shall be held in trust by Lessor for the repair, restoration or rebuilding of such damaged or destroyed buildings and other improvements, and shall be disbursed therefor by said Lessor only on architect's certificates after Lessee has, at its own expense, without charge or lien upon said buildings or other improvements, restored, rebuilt or repaired the same to an extent that

will enable Lessor, with the insurance money remaining in its hands after the payment of the rent and charges due it, to complete said buildings or other improvements in as good condition as they were in before the said loss or damage by explosion, fire and/or windstorm.

4.05 FAILURE OF LESSEE TO INSURE IMPROVEMENTS

In the event Lessee should at any time neglect, fail or refuse to insure or to keep insured the buildings and other improvements on said Demised Premises as above provided, then Lessor at its election may procure or renew such insurance and the amount paid therefor shall be repaid by Lessee to Lessor with the rents next thereafter falling due under this Lease, together with interest thereon at the rate of two percent (2%) in excess of the prime rate charged by the principal bank in Chicago, Illinois, to its commercial borrowers as determined on the first date of a delinquency from the respective dates of any such payments.

4.06 RIGHT OF LESSEE TO RECOVER PROCEEDS

It is covenanted and agreed by and between the parties hereto that Lessor shall not be held responsible for the collection or non-collection of any of said insurance money in any event but only for such insurance money as shall come into its hands. Lessee, however, shall have the right in the name of Lessor to sue for and recover any and all sums payable under any of said policies for losses arising thereunder provided it shall indemnify and save harmless Lessor from any costs or attorney's fees in connection with any such proceeding to recover such insurance money. However, all sums so recovered shall be paid to Lessor to be applied as herein provided.

4.07 APPLICATION OF INSURANCE PROCEEDS

It is covenanted and agreed by and between the parties hereto that in case of damage to the buildings and improvements to be erected, constructed or placed on the Demised Premises, as aforesaid, or the destruction thereof (or loss or damage to any buildings or other improvements thereafter standing upon the Demised Premises) Lessee shall repair, restore or rebuild the same within one year from such destruction or damage, and in such case the insurance money received by Lessor pursuant to the terms of this Lease under said policies, after deducting therefrom the reasonable charges of Lessor for handling such insurance and all costs and expenses of collecting the same, including attorney's fees, and all unpaid and overdue rental payments shall be paid in whole or in part by Lessor to the contractor or contractors (employed by Lessee) upon the delivery to the Executive Director of Lessor of certificates of the architects of Lessee properly endorsed by Lessee and accompanied by waivers of lien and release for the cost and expense of repairing, restoring or rebuilding said buildings or other improvements as the work of repairing, restoring, or rebuilding progresses.

4.08 INSURANCE PROCEEDS DEFICIENCY

It is understood and agreed between the parties hereto that in case the insurance money collected by Lessor shall not be sufficient to fully pay for the repair, restoration or rebuilding of said buildings and other improvements as aforesaid, then Lessee shall be required to pay such sums of money, in addition to said insurance money so collected by Lessor as aforesaid as may be necessary to pay for the complete repair, restoration or rebuilding of said buildings and other improvements; it being understood, however, that Lessor shall not be required to pay such insurance money so collected until the Executive Director of Lessor is satisfied that such sum will complete the repair, restoration and rebuilding of said buildings and other improvements, free of mechanics' liens for labor or material, in which event such monies shall be paid by Lessor to the contractor or contractors employed by the Lessee to complete the repair, restoration or rebuilding of said buildings and other improvements, upon delivery to the Executive Director of Lessor of certificates of the architects of Lessee properly endorsed by Lessee accompanied by waiver of lien and release as the work of repairing, restoring or rebuilding of said buildings and other improvements shall progress. It is expressly understood that nothing herein shall prevent Lessee from replacing any building or structure destroyed or damaged with other buildings or structures of different design and construction of at least equal value on any part of the Demised Premises.

4.09 LESSOR NOT RESPONSIBLE FOR RESTORATION OF IMPROVEMENTS

It is covenanted and agreed that Lessor shall not be liable to contribute or pay any sum of money toward the restoration, repair or rebuilding of said buildings or other improvements. In the event of the termination of this Lease by lapse of time, or by reason of any default by Lessee in any of its payments, or a breach by Lessee of any of the covenants and agreements of this Lease before the repair, restoration, replacement or rebuilding of said buildings or other improvements shall be completed, as aforesaid, then in any of said cases the insurance money collected by Lessor shall belong absolutely to Lessor.

4.10 EXCESS INSURANCE PROCEEDS

It is understood and agreed that after the work of any such repairs, restoration, or rebuilding by Lessee shall have been completed and paid for, any excess of insurance money then remaining on deposit with Lessor shall belong to Lessee and in that event, Lessor shall pay to Lessee the balance of said insurance money upon its written request. The provisions of this paragraph as well as those of paragraphs numbered 4.04 to 4.09, inclusive, shall apply whenever and so often as any buildings or other improvements erected and completed on the Demised Premises, under any of the provisions of this Lease, shall have been damaged or destroyed by fire or windstorm.

ARTICLE FIVE

5.01 GENERAL ENGINEERING RESERVATIONS AND REQUIREMENTS

- A. Lessor has heretofore executed various agreements with governmental agencies, public utility companies, private corporations and individuals for the installation of pipelines, duct lines, sewers, cables, electric transmission lines and other surface and subsurface structures, constructions and improvements. Pursuant to those agreements, the various grantees have installed and are operating their respective surface and underground plant facilities which may lie within or otherwise affect the Demised Premises. Lessee shall, at its own initiative, inquire and satisfy itself as to the presence or absence of all such facilities on the Demised Premises, and waives all claims which it might otherwise have against Lessor on account of the presence of such facilities on the Demised Premises as same may affect Lessee's use and enjoyment of the Demised Premises.
- B. Lessee expressly agrees that within an area delineated by a line parallel with and 250 feet distant from the top of the edge of the water of any waterway which traverses or is adjacent to the Demised Premises (Corporate Use Reserve Area) and all areas within the Demised Premises below the lowest elevation of development thereon as reflected in Lessee's approved development plans for the Demised Premises, Lessor and anyone acting under its authority shall have the right, without payment therefor, to construct, operate, maintain, repair, renew and relocate any and all pipe, sewer, structure, facility power, and communications lines and appurtenances upon, under and across the Demised Premises. All such work shall be performed in such a manner so as to cause the least amount of interference with Lessee's use of the Demised Premises.
- C. Lessee expressly understands and agrees that Lessor may have installed various sewers, shafts, ducts, pipes, and other facilities upon, over or beneath the Demised Premises. Lessor shall cooperate with Lessee to ascertain, identify and locate all of Lessor's improvements, structures and constructions on the Demised Premises. Lessee covenants and agrees that at no time shall its use and occupancy of the Demised Premises damage or interfere with said facilities.
- D. Lessor reserves unto itself a perpetual right, privilege, and authority to construct, maintain, operate, repair and reconstruct intercepting sewers (with its connecting sewers and appurtenances), and any other drains or structures constructed or operated in the furtherance of Lessor's corporate purpose upon, under and through

Corporate Use Reserve Area and below the lowest elevation of Lessee's approved development plan for the Demised Premises. Lessor shall also have the right, privilege and authority to enter upon and use such portions of said Demised Premises as may be necessary in the opinion of the Executive Director of Lessor, for the purpose of constructing, maintaining, operating, repairing and reconstructing intercepting sewers, connecting sewers, drains or other structures, appurtenances, parking areas and access drive which do not unreasonably interfere with Lessee's use of the Demised Premises.

It is expressly understood that no blockage or restriction of flow in the water will be tolerated at any time. No construction or improvements of any kind can project into the waterway during construction or after permanent repairs are completed.

It is further expressly understood and agreed by Lessee that no buildings, materials, or structures shall be placed or erected and no work of any character done on said Demised Premises so as to injure or damage in any way said intercepting sewer, connecting sewers, drains or other structures and appurtenances located at any time on the Demised Premises, or so as to interfere with the maintenance, operation or reasonable access thereto.

- E. It is expressly understood and agreed that Lessor shall not be liable to Lessee for any loss, cost or expense which Lessee shall sustain by reason of any damage at any time to its property caused by or growing out of the failure of the sewers, structures, or other equipment of Lessor located on the Demised Premises, or by any other work which Lessor may perform on the Demised Premises under the terms hereof, or adjacent to the Demised Premises.
- F. Lessee shall relocate or remove the improvements existing or constructed upon the Demised Premises, at no cost to the District in the following instances:
 - (1) In the event that the Demised Premises are adjacent to any channel or waterway, and said channel or waterway is to be widened by the District or any other governmental agency; or
 - (2) In the event that any agency of government, having jurisdiction over said channel or waterway, requires the relocation or removal of said improvements; or
 - (3) In the event that said relocation or removal is required for the corporate purposes of the District.

Such relocation or removal shall be commenced within ninety (90) days after notice thereof in writing is served upon Lessee and diligently prosecuted to the conclusion.

- G. If any time in the future, any portions of the Demised Premises are required for the construction of highways and roadways, or adjuncts thereto, such as interchanges, ramps and access roads, as determined by the Executive Director of Lessor, for the use of any other governmental agency engaged in the construction of highways and roadways, or adjuncts thereto, then in such event, it is understood and agreed by the parties hereto, that Lessee shall surrender possession of such part of the Demised Premises that may be so required. Lessee also agrees, at its own cost and expense, to remove all of its equipment, structures or other works from those portions of the Demised Premises so required, or reconstruct or relocate such of its installations so as to permit the use of the Demised Premises for the construction of highways and roadways or adjuncts thereto within sixty (60) days after notice shall have been given to Lessee by said Executive Director.
- H. Lessor reserves to itself or to its assignees or permittees at any time during the term of this Lease, upon thirty (30) days written notice given by Lessor to Lessee, the right to construct, reconstruct, maintain, and operate additional force mains, intercepting sewers, drains, outlets, pipe lines, pole lines, and appurtenances thereto; and such other structures, buildings, apparatus, and water control equipment as may be needed for the corporate purposes of Lessor upon, under, and across the Demised Premises. Any such construction shall be located as determined by the Executive Director of Lessor so as to cause, in his opinion, the least interference with any equipment, or improvements, that Lessee may then have on the Demised Premises.
- I. Lessee agrees that if at any future date it desires to dispose of sewage, industrial wastes or other water-carried wastes from the Demised Premises, it will discharge the said sewage, industrial wastes or other water-carried wastes into an intercepting sewer owned by or tributary to the sewerage system of Lessor. Lessee will make application and secure the necessary permit from the Metropolitan Water Reclamation District of Greater Chicago and all governmental and regulatory agencies having jurisdiction thereof before discharging any of the aforesaid sewage, industrial waste or other water-carried wastes into any intercepting sewers.
- J. It is agreed by and between the parties hereto that Lessee shall submit to the Executive Director of Lessor for his approval, the

general plans for handling the sewerage, grading, and drainage of the Demised Premises; and for any roadways, water supply, telephone and electric service, if any, and of all improvements or any other construction to be erected thereon, before the commencement of any work thereon.

- K. Lessor reserves to itself the right of access to the North Shore Channel as well as right of access to the Demised Premises for inspection by Lessor and its duly accredited agents at all times, and for such surveys or any other purposes as the Executive Director of Lessor may deem necessary.
- L. Any blockage or restriction of flow in the waterway will not be tolerated at any time. No construction or improvements of any kind can project into the waterway during construction or after permanent repairs are contemplated.

5.02 STORMWATER MANAGEMENT REQUIREMENTS

Lessee shall submit to Lessor for its review and approval written plans detailing Lessee's plans for managing stormwater and drainage on the Demised Premises. The approval of Lessee's stormwater management plans shall be within the sole discretion of Lessor.

Lessee's plans shall provide for the separate collection of all roof water and surface run-off from grounds and roadways; shall comply with all applicable rules, regulations, ordinances, statutes, and laws pertaining to stormwater management, wetlands management, and flood plains; and shall, whenever feasible, employ Best Management Practices (BMP). BMPs may include, but are not limited to, green roofs, natural landscaping, filter strips, rain gardens, drainage swales, and naturalized detention basins. Stormwater unable to be managed by BMPs will be discharged to the North Shore Channel in a manner acceptable to Lessor.

5.03 SPECIFIC ENGINEERING, DESIGN AND OPERATING RESERVATIONS AND RESTRICTIONS. (CLARIFICATION -- NOT LIMITATION)

Lessee shall pay for and include green infrastructure on its leasehold. A "Green Infrastructure Program" form must be filled out completely and signed by the authorized representatives of both Lessee and the District concurrent with the signing of this Lease. The form, when completed and signed, shall be attached hereto as Exhibit C.

The amount of green infrastructure to be provided shall be determined by what is referred to as "Design Retention Capacity" or "DRC". DRC shall mean the maximum available retention capacity of a project in any individual storm event as stated in

project plans stamped by a licensed Professional Engineer or, in the absence of such statement, a project specific capacity calculated using the following table:

Technology	Quantity	Unit	Design Retention Capacity (gallons)
Rain Gardens	100	sq. ft.	200
Native Plants/Landscaping	100	sq. ft.	150
Stormwater Trees	100	Trees	1000
Porous Pavement	100	sq. ft.	1000
Bio-Swales	100	sq. ft.	500
Green Roofs	100	sq. ft.	300
Greenways	100	sq. ft.	63

The volume control storage to be provided shall equal the capture of 1-inch of runoff from the impervious surfaces located or to be located on the Demised Premises or 5,000 gallons per leased acre, whichever results in a greater amount of retention.

In lieu of, or in addition to, Lessee installing green infrastructure on its leasehold with the District, and subject to the same retention standards enunciated above, Lessee can, and is encouraged to, design, implement, operate, and maintain green infrastructure on other lands owned by Lessee. The responsibility for ongoing maintenance and operation shall be borne exclusively by Lessee, and shall be a covenant running with the land where the off-site green infrastructure is provided for the duration of the Lease.

Such factors that the District will consider in whether or not to give credit for off-site green infrastructure include, but are not necessarily limited to, where green infrastructure can mitigate local flooding, reduce infiltration and inflow, or educate the public about green infrastructure and benefit the community as a whole. Whenever approved off-site green infrastructure is provided, Lessee shall prominently install appropriate signage on the off-site location indicating that such green infrastructure is being provided in partnership with the District.

The District must approve in writing all green infrastructure projects under this section before green infrastructure may count towards satisfying the obligations created hereunder. Approval will be given at the District's sole discretion. Acceptable green infrastructure technologies include, but are not limited to, rain gardens, native plants/landscaping, stormwater trees, porous/permeable pavement, bio-swales, green roofs and greenways.

Site conditions in existence before this Lease was entered into will not count towards the green infrastructure that is to be provided under this section. Nor will compliance with the minimum requirements of federal, state, or local law or regulation, including the District's ordinances, regulations, or policies (other than the green

infrastructure requirements under the District's Comprehensive Land Use Policy). Accordingly, compliance with the District's Waterway Strategy and the District's Watershed Management Ordinance ("WMO") will not count towards the green infrastructure that is to be provided herein. Lessee is reminded in particular that Article 503 of the WMO requires non-residential development or redevelopment greater than one-half acre to provide volume control storage for the first inch of runoff from newly created impervious surfaces. For purposes of this section, the District's ordinances, regulations, and policies, including the WMO, shall apply to all District properties, whether located in Cook County (including the city of Chicago) or other counties in the state of Illinois.

Lessee shall provide the District with an annual certification, due on each anniversary of the date of this Lease, attesting that approved green infrastructure has been properly maintained. The certification shall be made on a form prepared by the District. Failure to maintain approved green infrastructure, whether pertaining to the Demised Premises or locations off-site, throughout the term of this Lease, or failure to properly and accurately certify to the maintenance of approved green infrastructure, shall be grounds for termination of this Lease by the District. Similarly, providing untrue or inaccurate information in the "Green Infrastructure Program" form shall likewise be grounds for termination of this Lease by the District. The District reserves the right to inspect the Demised Premises throughout the duration of this Lease to verify approved green infrastructure has been properly installed and maintained. The District further reserves the right to require Lessee to amend its green infrastructure plan, even if previously approved by the District. Should such an amendment or subsequent amendments be requested by the District, Lessee shall thereafter, within a reasonable amount of time, install green infrastructure in conformity with the District's request(s).

To the extent practicable, Lessee shall use District biosolids in any amendments they perform to the leasehold soil. Such amendments may include, but not necessarily be limited to, creating bio-swales, native landscaping, and recreational fields. Subject to availability, the District will provide such biosolids free of charge with Lessee being required to pay for the transportation costs and the costs associated with the soil amendments.

ARTICLE SIX

PROVISIONS FOR BUILDING DEMOLITION

6.01 CONSTRUCTION REQUIREMENT

Lessee agrees within N/A () year(s) from the date hereof to improve the Demised Premises free and clear of all mechanics' and materialman's liens, claims, charges or unpaid bills capable of being made liens, and to design, construct, operate and maintain in full compliance with all applicable building and zoning laws of any agency having jurisdiction thereof. All plans must be approved in writing by the Executive Director of Lessor prior to commencement of construction.

6.02 TIME OF CONSTRUCTION

Construction of the improvements shall commence within N/A () year(s) of the effective date of this Lease. All of said buildings and improvements shall be completed within N/A () year(s) of the effective date of the Lease. In the event said improvements are not completed or construction is not commenced as provided above, then Lessor may at its option terminate this Lease upon giving ninety (90) days' notice, in writing, to Lessee.

6.03 IMPROVEMENTS REVERT TO LESSOR AT LEASE TERMINATION OR EXPIRATION

It is expressly understood and agreed by and between the parties hereto that upon the termination of this Lease by forfeiture, lapse of time or by reason of the failure by Lessee to keep and perform the covenants, agreements or conditions herein contained, any buildings or other improvements erected, constructed or placed upon the Demised Premises during the term hereof shall become and be the absolute property of Lessor and no compensation therefor shall be allowed or paid to Lessee except as stated in Article 3.09. Lessee shall surrender same in good and proper condition, with all fixtures and appurtenances in place and in good working order, ordinary wear and tear excepted. Lessee shall not commit waste during the term hereof or in the course of vacating same.

ARTICLE SEVEN

7.01 NOTICES

All notices herein provided for from Lessor to Lessee or Lessee to Lessor shall be personally served or mailed by U. S. Registered or Certified Mail, Return Receipt Requested, First Class Postage Prepaid addressed to Lessee at:

City of Evanston
2100 Ridge Avenue
Evanston, Illinois 60201
Attn:
Phone:
Facsimile:

or to Lessor at: Metropolitan Water Reclamation District
of Greater Chicago
100 East Erie Street
Chicago, Illinois 60611
Attn: Executive Director

or any other address either party may designate in writing. Any notice so mailed by one party hereto to the other shall be and is hereby declared to be sufficient notice for all the purposes of this Lease and that a post office registry receipt showing the

mailing of such notice and the date of such mailing shall be accepted in any court of record as competent prima facie evidence of those facts.

7.02 RIGHT TO DECLARE LEASE TERMINATED

It is understood and agreed by Lessee that neither the right given in this Lease to Lessor to collect rent or such other compensation as may be due under the terms of this Lease by sale nor any proceedings under this Lease shall in any way affect the right of Lessor to declare this Lease terminated and the term hereby created ended as above provided, upon default of or failure by Lessee to perform and carry out any of the provisions of this Lease, as herein provided, after notices as aforesaid. And Lessee, for itself and its assigns, hereby waives its right to any notice from Lessor of its election to declare this Lease at an end under any of the provisions hereof or to any demand for the payment of rent or the possession of the Demised Premises, except as aforesaid.

7.03 RIGHTS OF LESSOR IN EVENT OF FORFEITURE OR TERMINATION

In the event of the termination of this Lease by reason of forfeiture by Lessee arising from a default by or failure of it to carry out and perform any of the covenants herein contained, Lessor shall not be obligated to refund to Lessee any sums of money paid by Lessee to Lessor as rentals under the terms of this Lease, and such sums of money shall be retained by Lessor as liquidated damages, but this provision shall not operate to relieve Lessee of its obligation to pay to Lessor the balance of the rental then due Lessor for the entire term of this Lease.

7.04 ABANDONMENT

Lessee shall not without the prior written approval of Lessor abandon or vacate the Demised Premises or cease to operate its business thereon. Re-entry and repossession by Lessor following abandonment by Lessee shall not constitute a waiver of any rights of Lessor and shall not be construed as a termination of the Lease. Lessee shall remain liable for all its obligations under the Lease. For purposes of this section, leasehold shall be deemed abandoned if Lessee ceases business on the Demised Premises for a period of twenty-eight (28) consecutive days or fails to secure the Demised Premises from unauthorized use or entry within sixty (60) days of its execution and delivery of this Lease.

7.05 TERMS OF LEASE BINDING ON SUCCESSOR AND ASSIGNS

The parties hereto agree that all of the terms and conditions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors, lessees, sub-lessees and assigns; and whenever in this Lease reference to either of the parties hereto is made, such reference shall be deemed to include, where applicable, also a reference to the successors, lessees, sub-lessees and assigns of such party; and all the conditions and covenants of this Lease shall be construed as covenants running with the land during the term of this Lease.

7.06 NO ASSIGNMENT OR SUBLEASE

It is agreed by and between the parties that Lessee shall not sublet or assign any part of this Lease to any other governmental agency, individual, partnership, joint venture, corporation, land trust or other entity without prior written consent of Lessor.

Lessee shall notify Lessor in writing not less than sixty (60) days prior to any proposed sublease or assignment. Lessee shall identify the name and address of the proposed assignee/sublessee and deliver to Lessor original or certified copies of the proposed assignment, a recital of assignee's personal and financial ability to comply with all the terms and conditions of the Lease and any other information or documentation requested by Lessor. Lessor shall not unreasonably withhold the consent to assignment or sublease.

It is agreed that reasonable grounds for withholding consent shall include but not be limited to the following:

- A. The proposed activity of the assignee/sublessee does not conform with the terms of this Lease or policies established by Lessor.**
- B. The proposed assignee/sublessee does not have either substantial experience in the business provided for in the Lease or the financial resources to comply with the requirements of the Lease.**
- C. There is an existing violation of or uncured default by Lessee with respect to the Lease.**
- D. The activity of the proposed assignee/sublessee would interfere with or disturb neighboring tenants or owners.**

In addition to the payment of all cash rent or additional compensation otherwise herein required to be paid by or performed by Lessee, Lessee will pay to Lessor, as additional compensation hereunder in the event Lessee assigns this Lease or sublets all or part of the Demised Premises, fifty percent (50%) of all value it receives from its assignee/sub lessee for the use and occupancy of the Demised Premises as a result of the sublease or assignment in excess of the cash rent which Lessee is currently paying with respect to the subleased portion of the leasehold or the leasehold as a tract, if assigned.

The value of additional services to be performed by Lessee, sub lessee or assignee shall not in any way be included in determining the foregoing fifty- percent (50%) sum.

It is agreed that this Lease shall not pass by operation of law to any trustee or receiver in bankruptcy or for the assignment for the benefit of creditors of Lessee.

Any attempted sublease or assignment not in compliance with this section shall be void and without force and effect. Additionally, Lessor shall retain 100% of all sublease fees received by Lessor under any unauthorized sublease.

ARTICLE EIGHT

MISCELLANEOUS PROVISIONS

8.01 LESSEE MAY IMPEAD THE METROPOLITAN WATER RECLAMATION DISTRICT IN REAL ESTATE LITIGATION

Lessee may, after notice in writing to Lessor, implead Lessor as a party at any time during the term of this Lease, in any litigation concerning the Demised Premises in which Lessor is a necessary party.

8.02 LESSEE TO PAY ALL COSTS OF ENFORCEMENT

Lessee agrees to pay and discharge all costs and reasonable attorney's fees and expenses, which Lessor shall incur in enforcing the covenants of this Lease.

8.03 HEADINGS ARE FOR CONVENIENCE OF PARTIES

All paragraph headings of this Lease are inserted for purposes of reference and convenience of the parties only, and do not constitute operative provisions of the Lease.

8.04 COMPLIANCE WITH WATERWAY STRATEGY RESOLUTION

To the extent that the Demised Premises embrace or abut a waterway regulated by Lessor or in which Lessor asserts property rights, Lessee shall to the extent applicable, comply with the Waterway Strategy Resolution and Implementation Criteria therefor, the River Edge Renaissance Program and the Revised Leasing Criteria for the North Shore Channel Right-of-Way Lands of Lessor's Board of Commissioners in the execution of its development plan for the Demised Premises which abut any such waterway and Demised Premises which afford Lessee direct access thereto may be utilized by Lessee for the purpose of waterborne commerce. However, Lessee will be responsible for the construction and maintenance of any docking facility at its own cost and expense which is compatible with the Waterway Strategy Resolution to maintain the bank in an aesthetically pleasing condition. Permanent storage of bulk commodities, unsightly materials and/or debris on waterway side of the scenic berm or the docking area is prohibited.

It is the intent of Lessor to maintain, where possible, a "natural" appearance to its properties by retaining existing vegetative cover. However, Lessor recognizes that site development will sometimes necessitate the removal of existing vegetative cover. In those cases Lessor will require Lessee to re-establish vegetative cover in the same quantities and qualities as those removed. The re-established plant materials

are to be considered as an addition to the landscaping required within the scenic easement.

Lessee will comply with all applicable local zoning and setback requirements. Lessor reserves the right to traverse the Demised Premises to access the waterway which abuts the Demised Premises.

Lessor's Board of Commissioners has heretofore adopted its Waterway Strategy Resolution relating to the development of leased waterways property. Lessee shall implement the beautification plan described in the attached Exhibit D. Lessee shall comply with all applications of said Resolution in its use and development of the Demised Premises. Lessee's method of compliance therewith shall be approved by Lessor's Executive Director in writing.

8.05 PUBLIC SERVICE PROMOTIONAL SIGNAGE

Lessee shall, during the term of this Lease, at its sole cost and expense, construct, erect and maintain, at one or more prominent locations on the leasehold premises, tastefully designed and constructed permanent signs which acknowledge the cooperation and support of Lessor in connection with Lessee's use of the leasehold premises. The style, text and size of the sign(s) shall be approved in advance of erection thereof by the Executive Director of Lessor, and shall, at a minimum, state that:

"THIS FACILITY IS PROVIDED IN PART AS A COMMUNITY SERVICE WITH THE COOPERATION AND SUPPORT OF THE METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO."

8.06 TREE MITIGATION

- A. No alterations, construction or maintenance work upon the premises involving any material change in the location, installation or construction of facilities, or involving the removal of any trees on District property, shall be performed by any person or municipality without having first obtained District approval. However, Lessee may conduct routine trimming of trees, brush or other overgrown vegetation to the extent it interferes with the safety or proper functioning of any improvements.**
- B. If the proper maintenance and operation of facilities or improvements on the premises necessitates the removal of any trees on District property, Lessee shall give no less than 14-day written notice, exclusive of Saturdays, Sundays and holidays, of its intent to remove any trees on the premises, setting forth the number, location and species of trees to be removed.**
- C. Lessee shall submit to the District a plan to replace any trees removed that provides for planting the same or greater number and quality of**

trees on the premises, or on alternate areas owned by the District as designated and approved in writing by the District.

- D. Lessee is responsible for obtaining any local permits necessary for tree removal.

ARTICLE NINE

LEASEHOLDS WITH EXISTING IMPROVEMENTS

9.01 LESSEE WILL NOT ALLOW WASTE TO IMPROVEMENTS

Lessee will keep the leasehold improvements safe, clean and in good order, repair and condition which shall include all necessary replacement, repair and decorating. Lessee will not allow the improvements to become damaged or diminished in value, ordinary wear and tear excepted, by anyone or by any cause.

9.02 CONDITION OF DEMISED PREMISES AND IMPROVEMENTS NOT WARRANTED

Lessee expressly acknowledges that Lessor has made no representations, warranties express or implied, as to the adequacy, fitness or condition of Demised Premises or the improvements upon the Demised Premises for the purpose set forth in Article Three, Paragraph 3.07 hereof or for any other purpose or use express or implied by Lessee. Lessee accepts the Demised Premises and the improvements thereon, if any, "AS-IS" and "WITH ALL FAULTS". Lessee acknowledges that it has inspected the Demised Premises and has satisfied itself as to the adequacy, fitness and condition thereof.

9.03 MODIFICATION OF IMPROVEMENTS

No modification of the leasehold improvements shall be made by Lessee without the prior written approval of Lessor and compliance by Lessee with all other terms of this Agreement.

9.04 PLAT OF SURVEY AND LEGAL DESCRIPTION

Lessee understands and agrees that in the event the legal description and plat attached hereto are not legally sufficient for acceptance for recordation of this Lease by the Recorder of Deeds of the county in which the Demised Premises are located, Lessee shall procure, at its own expense, a plat of survey and legal description of the Demised Premises prepared and certified in writing by a Registered Illinois Land Surveyor, within twenty-one (21) days of the execution date hereof. Said plat of survey and legal description shall be reasonably satisfactory to and approved by Lessor's Executive Director in writing. Failure to timely procure and receive approval of said plat of survey and legal description shall be grounds for immediate termination of this Lease. Lessor reserves the right and Lessee concurs that Lessor shall insert said legal

description and plat of survey into this Lease Agreement as Exhibit A upon the approval thereof by District's Executive Director, without further affirmative act by either party hereto.

ARTICLE TEN

GENERAL ENVIRONMENTAL PROVISIONS

10.01 DEFINITIONS

- A. "Environmental Laws" shall mean all present and future statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations and similar items, of all government agencies, departments, commissions, boards, bureaus, or instrumentalities of the United States, state and political subdivisions thereof and all applicable judicial, administrative, and regulatory decrees, judgments, orders, notices or demands relating to industrial hygiene, and the protection of human health or safety from exposure to Hazardous Materials, or the protection of the environment in any respect, including without limitation:
- (1) all requirements, including, without limitation, those pertaining to notification, warning, reporting, licensing, permitting, investigation, and remediation of the presence, creation, manufacture, processing, use, management, distribution, transportation, treatment, storage, disposal, handling, or release of Hazardous Materials;
 - (2) all requirements pertaining to the protection of employees or the public from exposure to Hazardous Materials or injuries or harm associated therewith; and
 - (3) the Comprehensive Environmental Response, Compensation and Liability Act (Superfund or CERCLA) (42 U.S.C. Sec. 9601 et seq.), the Resource Conservation and Recovery Act (Solid Waste Disposal Act or RCRA)(42 U.S.C. Sec. 6901 et seq.), Clean Air Act (42 U.S.C. Sec 7401 et seq.), the Federal Water Pollution Control Act (Clean Water Act) (33 U.S.C. Sec, 1251 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. Sec. 11001 et seq.), the Toxic Substances Control Act (15 U.S.C. Sec, 2601 et seq.), the National Environmental Policy Act (42 U.S.C. Sec. 4321 et seq.), the Rivers and Harbors Act of 1988 (33 U.S.C. Sec. 401 et seq.), the Endangered

Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the Safe Drinking Water Act (42 U.S.C. Sec. 300(f) et seq.), the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.) and all rules, regulations and guidance documents promulgated or published thereunder, Occupational Safety and Health Act (29 U.S.C. Sec. 651 et seq.) and all similar state, local and municipal laws relating to public health, safety or the environment.

B. "Hazardous Materials" shall mean:

- (1) any and all asbestos, natural gas, synthetic gas, liquefied natural gas, gasoline, diesel fuel, petroleum, petroleum products, petroleum hydrocarbons, petroleum by-products, petroleum derivatives, crude oil and any fraction of it, polychlorinated biphenyls (PCBs), trichloroethylene, urea formaldehyde and radon gas;**
- (2) any substance (whether solid, liquid or gaseous in nature), the presence of which (without regard to action level, concentration or quantity threshold) requires investigation or remediation under any federal, state or local statute, regulation, ordinance, order, action, policy or common law;**
- (3) any substance (whether solid, liquid or gaseous in nature) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous or dangerous;**
- (4) any substance (whether solid, liquid or gaseous in nature) the presence of which could cause or threaten to cause a nuisance upon the Demised Premises or to adjacent properties or pose or threaten to pose a hazardous threat to the health or safety of persons on or about such properties;**
- (5) any substance (whether solid, liquid or gaseous in nature) the presence in of which on adjacent properties could constitute trespass by or against Lessee or Lessor;**
- (6) any materials, waste, chemicals and substances, whether solid, liquid or gaseous in nature, now or hereafter defined, listed, characterized or referred to**

in any Environmental Laws as "hazardous substances," "hazardous waste," "infectious waste," "medical waste," "extremely hazardous waste," "hazardous materials," "toxic chemicals," "toxic substances," "toxic waste," "toxic materials," "contaminants," "pollutants," "carcinogens," "reproductive toxicants," or any variant or similar designations;

- (7) any other substance (whether solid, liquid or gaseous in nature) which is now or hereafter regulated or controlled under any Environmental Laws (without regard to the action levels, concentrations or quantity thresholds specified herein); or
- (8) any result of the mixing or addition of any of the substances described in this Subsection B with or to other materials.

C. "Phase I Environmental Assessment" shall mean:

- (1) an assessment of the Demised Premises performed by an independent and duly qualified, licensed engineer with experience and expertise in conducting environmental assessments of real estate, bedrock and groundwater of the type found on the Demised Premises, and said assessment shall include, but not necessarily be limited to a historical review of the use (abuse) of the Demised Premises, a review of the utilization and maintenance of Hazardous Materials on the Demised Premises, review of the Demised Premises' permit and enforcement history (by review of regulatory agency records), a site reconnaissance and physical survey, inspection of Demised Premises, site interviews and site history evaluations, basic engineering analyses of the risks to human health and the environment of any areas of identified concerns, and preparation of a written report which discusses history, site land use, apparent regulatory compliance or lack thereof and which includes historical summary, proximity to and location of USTs, LUSTs, TSDFs, CERCLA site flood plain, maps, photograph log, references, conclusions and recommendations.

D. "Phase II Environmental Assessment" shall mean:

- (1) an assessment of the Demised Premises performed by an independent and duly qualified, licensed engineer with experience and expertise in conducting environmental assessments of real estate, bedrock and groundwater of the type found on the Demised Premises, and said assessment shall include, but not necessarily be limited to, extensive sampling of soils, groundwaters and structures, followed by laboratory analysis of these samples and interpretation of the results, and preparation of a written report with boring logs, photograph logs, maps, investigative procedures, results, conclusions and recommendations.

10.02 MANUFACTURE, USE, STORAGE, TRANSFER OR DISTRIBUTION OF HAZARDOUS MATERIALS UPON OR WITHIN THE DEMISED PREMISES

Lessee, for itself, its heirs, executors, administrators, successors and assigns, covenants that to the extent that any Hazardous Materials are manufactured, brought upon, placed, stored, transferred or distributed upon or within the Demised Premises by Lessee, or its subtenant or assigns, or any of their agents, servants, employees, contractors or subcontractors, same shall be done in strict compliance with all Environmental Laws.

Construction or installation of new or reconstruction of existing underground storage tanks and underground interconnecting conveyance facilities for any material or substance is not permitted without the advance written consent of the Executive Director of the District.

10.03 USE OF DEMISED PREMISES (RESTRICTIONS - ENVIRONMENTAL)

Lessee shall use the Demised Premises only for purposes expressly authorized by Article 3.07 of this Lease. Lessee will not do or permit any act that may impair the value of the Demised Premises or any part thereof or that could materially increase the dangers, or pose an unreasonable risk of harm, to the health or safety of persons to third parties (on or off the Demised Premises) arising from activities thereon, or that could cause or threaten to cause a public or private nuisance on the Demised Premises or use the Demised Premises in any manner (i) which could cause the Demised Premises to become a hazardous waste treatment, storage, or disposal facility within the meaning of, or otherwise bring the Demised Premises within the ambit of, the Resource Conservation and Recovery Act of 1976, Section 6901 et seq. of Title 42 of the United States Code, or any similar state law or local ordinance, (ii) so as to cause a release or threat of release of Hazardous Materials from the Demised Premises within the meaning of, or otherwise bring the Demised Premises within the ambit of, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 9601 et seq. of Title 42 of the United States Code, or any similar state law or local ordinance or any other Environmental Law or (iii) so as to cause a discharge of pollutants or effluents into any water source or system, or the discharge

into the air of any emissions, which would require a permit under the Federal Water Pollution Control Act, Section 1251 of Title 33 of the United States Code, or the Clean Air Act, Section 741 of Title 42 of the United States Code, or any similar state law or local ordinance.

10.04 CONDITION OF PROPERTY (ENVIRONMENTAL)

- (1) In the event Lessee has been the prior occupant/tenant of the Demised Premises under a prior occupancy/use authorization, Lessee warrants and represents that the Demised Premises and improvements thereon, including all personal property, are free from contamination by any Hazardous Materials, that there has not been thereon a release, discharge, or emission, of any Hazardous Materials during its occupancy of the Demised Premises as defined by any Environmental Laws, and that the Demised Premises does not contain, or is not affected by underground storage tanks, landfills, land disposal sites, or dumps. *(This provision is applicable only to tenants seeking a new lease for the same property).**
- (2) In the event of a release, emission, discharge, or disposal of Hazardous Materials in, on, under, or about the Demised Premises or the improvements thereon, Lessee will take all appropriate response action, including any removal and remedial action, either before or after the execution date of this Lease.**

10.05 INDEMNIFICATION (ENVIRONMENTAL)

- A. In consideration of the execution and delivery of this Lease Agreement, Lessee indemnifies, exonerates, and holds Lessor and its officers, officials, Commissioners, employees, and agents ("Indemnified Parties") free and harmless from and against any and all actions, causes of action, suits, losses, costs, liabilities and damages and expenses incurred in connection with any of these (irrespective of whether any such Indemnified Party is a party to the action for which indemnification is here sought), including reasonable attorney's fees, costs and disbursements, incurred by the Indemnified Parties as a result of or arising out of or relating to (i) the imposition of any governmental lien for the recovery of environmental cleanup costs expended by reason of Lessee's activities, or (ii) any investigation, litigation, or proceeding related to any environmental response, audit, compliance, or other mat-**

ter relating to the protection of the environment, or (iii) the release or threatened release by Lessee, its subsidiaries, or its parent company, of any Hazardous Materials, or the presence of Hazardous Materials on or under the Demised Premises, or any property to which Lessee, its parent company or any of its subsidiaries has sent Hazardous Materials, (including any losses, liabilities, damages, injuries, costs, expenses, or claims asserted or arising under any Environmental Law), regardless of whether caused by or within the control of Lessee, its parent company or its subsidiaries, provided that, to the extent Lessor is strictly liable under any Environmental Laws, Lessee's obligation to Lessor under this indemnity shall be without regard to fault on the part of Lessee with respect to the violation of law which results in liability to Lessor.

- B. Lessee shall defend, indemnify, save and keep harmless the Indemnified Parties against any loss, damage, cost, lien or expense which they may suffer, incur or sustain or for which it may become liable, growing out of any injury to or death of persons or loss or damage to property which shall at any time during the term of this Lease be caused by or resulting from the migration of Hazardous Materials from the Demised Premises to adjacent properties. In case any action, suit, proceeding or investigation shall be commenced against one or more of the Indemnified Parties growing out of any such loss, damage, cost or expense, Lessee shall give immediate written notice of the same to Lessor, and Lessee shall attend to the defense of the same and save and keep harmless the Indemnified Parties from all expense, attorney's fees, costs, disbursements and liabilities in any manner growing out of, pertaining to or connected therewith.
- C. Lessee shall be responsible for all costs for remediation of the Demised Premises for contamination that migrates from adjacent property during the term of the Lease but Lessor may seek recovery from any responsible third party.

10.06 SITE RESTORATION/REMEDATION BOND (ENVIRONMENTAL)

On or before the commencement of the last five-year period of the leasehold term hereunder, Lessee shall lodge with Lessor its Environmental Site Restoration/Remediation Bond in the penal sum of \$10,000.00, secured either by cash, irrevocable letter of credit or a commercial bond with surety to secure Lessee's performance of and compliance with the provisions and intent of Article 10 of this Lease. A cash payment securing the bond hereunder will be placed in an interest bearing account established by Lessor specifically for this purpose. Any interest paid on account of said deposit shall be the property of and payable periodically to Lessee. Such account shall be drawable only by Lessor upon its unilateral act. At no time shall the

amount on deposit in said account be less than the penal sum of this Bond. Any commercial bond with surety shall be fully prepaid by Lessee and documented as such at the time it is lodged with Lessor. Said Bond shall be in a form approved by Lessor and shall be maintained in full force and effect until such time as Lessee has demonstrated and documented to the reasonable satisfaction of Lessor (and Lessor has executed its written release thereof to the issuer), full compliance with all Environmental Laws, relating to Lessee's use or occupancy of the Demised Premises and its environmental restoration or remediation. This provision shall survive the termination/expiration of this Lease.

10.07 ENVIRONMENTAL COVENANTS

Lessee agrees to and covenants as follows:

- A. It has no knowledge of any pending or threatened:
 - (1) claims, complaints, notices, or requests for information directed to Lessee with respect to any alleged violation of any Environmental Laws, or**
 - (2) complaints, notices, or requests for information directed to Lessee regarding potential liability under any Environmental Law, relating to or arising from the Demised Premises.****
- B. Lessee covenants and agrees that, throughout the term of the Lease, all Hazardous Materials which may be used by any person for any purpose upon the Demised Premises shall be used or stored thereon only in a safe, approved manner, in accordance with all generally accepted industrial standards and all Environmental Laws.**
- C. Lessee has been issued and is in compliance with all permits, certificates, approvals, licenses, and other authorizations relating to environmental matters and necessary for its business, if any.**
- D. Lessee, to the best of its knowledge, is not a potentially responsible party with respect to any other facility receiving waste of Lessee (from the Demised Premises) under CERCLA or under any statute providing for financial responsibility of private parties for cleanup or other actions with respect to the release or threatened release of any Hazardous Materials.**
- E. None of the manufacturing or distribution facilities of Lessee is subject to any environmental lien. "Environmental Lien" means a lien in favor of any government entity for any liability under any**

law relating to the environment or costs incurred by such government entity in response to the release or threatened release of any substance into the environment.

- F. Lessee will take all reasonable steps to prevent and has no knowledge of any conditions on the Demised Premises that is or was alleged by any government entity or third party to be in violation of any Environmental Laws. There will be no spill, discharge, leaks, emission, injection, escape, dumping, or release of any toxic or Hazardous Materials by any persons on the Demised Premises.
- G. Except as disclosed on Attachment D hereto, Lessee and its parent company, if any, have not received from any government entity since 1980, any written complaint or written notice asserting potential liability, written request for information, or written request to investigate any site under the CERCLA of 1980, as amended, or under any domestic state law comparable to CERCLA or any foreign law comparable to CERCLA.
- H. Lessee, to the best of its knowledge after due inquiry, since November 15, 1971, represents that there has not been any discharging, spilling, leaking, dumping, or burying of hazardous substances, as defined in CERCLA, or disposal of hazardous wastes, as defined in RCRA, or of any other pollutant or contaminant at the Demised Premises that is likely to form the basis for any written claim by any government entity seeking to impose liability for remedial action under CERCLA or RCRA *(This provision applicable only to occupants/tenants seeking a new lease for the same property).
- I. Lessee will not allow the installation of asbestos on the Demised Premises, or any item, article, container or electrical equipment, including but not limited to transformers, capacitors, circuit breakers, reclosers, voltage regulators, switches, electro-magnets and cable, containing PCBs.
- J. Within 60 days after execution of the Lease, Lessee shall prepare and submit a general statement to Lessor of its operations and maintenance program for any activities conducted on Demised Premises, describing its layout, process, method of inspections, reporting procedure, and maintenance of equipment, which shall be updated annually and submitted to Lessor on the anniversary date of the execution of the Lease.

- K. Lessee agrees to conduct daily monitoring and to maintain a daily log book to ensure compliance with all Environmental Laws which may be inspected by Lessor at its option.**
- L. Lessee shall notify Lessor in writing of any proposed significant renovation or improvement on or to the Demised Premises, which notice shall include any drawings, plans and specifications thereof, at least 30 days prior to beginning construction of any such renovation or improvement. For purposes of this subsection (L), renovation shall be deemed significant when the total cost exceeds \$10,000.00.**
- M. To the event Lessee installs new underground utilities at the Demised Premises, Lessee shall be responsible to install "plugs" of compacted impermeable soil material at intervals of no greater than 100 feet between such plugs along utility trenches which have been backfilled with compacted granular materials in order to minimize cross-site and off-site environmental contaminant migration. The spacing of these plugs should be based on the characteristics of the site, the configuration of the trench or trenches, the characteristics (nature and extent) of the site environmental contamination, and/or the potential for site contamination should a surface of subsurface chemical release occur. Special emphasis should be placed on locating these plugs at all utility trenches where they cross: other utility trenches, containment berms or walls, property boundaries, and lease boundaries.**
- N. The aforesaid representations and warranties shall survive the expiration or termination of the Lease.**

10.08 DEFAULT (ENVIRONMENTAL)

The occurrence of any one or more of the following events shall constitute a default under this Lease Agreement, but said default shall not terminate the Lease unless Lessor notifies Lessee of termination in writing:

- A. The Demised Premises are listed or proposed for listing on the National Priorities List pursuant to Section 1.05 of the CERCLA, 42 U.S.C. Section 9605, on the CERCLIS, or on any other similar state list of sites or facilities requiring environmental investigation or cleanup.**
- B. Lessee is determined to have liability for underground storage tanks, active or abandoned, including petroleum storage tanks, on or under the Demised Premises, including any release of Hazardous Materials therefrom, that, singly or in the aggregate, have or may reasonably be expected to have a material adverse effect on**

the financial condition, operations, assets or business, properties or prospects of Lessee or its parent company.

- C. Lessee is determined to have liability for polychlorinated biphenyls (PCBs) that require immediate remediation or cleanup or friable asbestos in such condition to cause or threaten to cause, a present health hazard at any property previously leased by Lessee that, singly or in the aggregate, has or may reasonably be expected to have a material adverse effect on the financial condition, operations, assets, business, properties, or prospects of Lessee, or its parent company.
- D. Lessee is determined to have liability under any Environmental Laws for any condition that exists at, on, or under any property previously leased by Lessee that, with the passage of time or the giving of notice, or both, gives rise to liability that, singly or in the aggregate, has or may reasonably be expected to have a material adverse effect on the financial condition, operations, assets, or business properties or prospects of Lessee, or its parent company.

10.09 COVENANTS (ENVIRONMENTAL)

Lessee shall cause its parent company and each of its respective subsidiaries, contractors, subcontractors, employees and agents to:

- A.
 - (1) Use and operate all of the Demised Premises in compliance with all applicable Environmental Laws, keep all material permits, approvals, certificates, and licenses in effect and remain in material compliance with them;
 - (2) Undertake reasonable and cost-effective measures to minimize any immediate environmental impact of any spill or leak of any Hazardous Materials;
 - (3) Provide notice to Lessor of the operation of any on-site non-hazardous waste disposal facility. For purposes of this subsection (A)(3), the term "waste" means any discarded or abandoned material, and the term "disposal facility" means any facility in which wastes are placed for disposal or storage, in each case, for longer than three (3) months.
- B. Notify Lessor by telephone within two hours of the release of Hazardous Materials, including the extent to which the identity of the Hazardous Materials is known, the quantity thereof and the cause(s) of the release, and provide Lessor within 72 hours of the

event, with copies of all written notices by Lessee, its parent and its subsidiaries that are reported to government regulators or received from the government regulators.

- C. Provide such information that Lessor may reasonably request from time to time to determine compliance by Lessee with this Article.
- D. Lessee covenants and agrees to cooperate with Lessor in any inspection, assessment, monitoring or remediation instituted by Lessor during the Lease term and to allow prospective tenants or purchasers reasonable access to the Demised Premises one year prior to the expiration of the Lease.

10.10 COMPLIANCE (ENVIRONMENTAL)

Lessee will cause its parent company and each of its subsidiaries, if any, to exercise due diligence to comply with all applicable treaties, laws, rules, regulations, and orders of any government authority.

- A. Lessee shall conduct a Phase I Environmental Assessment, at its own expense, with respect to the Demised Premises every fifth anniversary of the execution of this Lease and submit the written report to Lessor within 90 days after each fifth anniversary. After review of each Phase I Environmental Assessment, or at any other time, upon receipt of any information or report Lessor, at its sole discretion, may require Lessee, at Lessee's expense, to obtain a Phase II Environmental Assessment with respect to the Demised Premises. The written report of the Phase II Environmental Assessment shall be submitted to Lessor within 120 days of Lessor's request for same. If the Phase II Assessment discloses the presence of any Hazardous Materials contamination on the Demised Premises or adjacent property, Lessee shall take immediate action to remediate the contamination and to restore the Demised Premises to a clean and sanitary condition and to the extent required by any and all environmental laws. Lessor may require Lessee to obtain a Phase I and Phase II Environmental Assessment with respect to the Demised Premises at any other time.
- B. Lessee agrees to implement its own building maintenance and operations program for asbestos inspections on an annual basis and to report its findings to Lessor annually on the anniversary date of the Lease.
- C. Capacitors, transformers, or other environmentally sensitive installations or improvements shall be removed at the end of the Lease at Lessor's election.

- D.** In addition to the Environmental Assessments required in paragraph A of this Article, Lessor shall have the right, but is not required to cause an independent environmental consultant, chosen by Lessor at its sole discretion, to inspect, assess and test the Demised Premises for the existence of any and all environmental conditions and any and all violations of Environmental Laws (Environmental Assessment). The scope, sequence and timing of the Environmental Assessment shall be at the sole discretion of Lessor.
- E.** If any Environmental Assessment reveals, or Lessor otherwise becomes aware of, the existence of any violation of any Environmental Laws that either Lessee is unwilling to remediate or that Lessor is unwilling to accept, Lessee shall be in default under this Lease and Lessor shall have the right and option to terminate this Agreement and to declare it null and void.
- F.** Not less than one (1) year prior to the expiration of the Lease, Lessee shall have caused to be prepared and submitted to Lessor a written report of a site assessment in scope, form and substance, and prepared by an independent, competent and qualified professional and engineer, registered in the State of Illinois, satisfactory to Lessor, and dated not more than eighteen (18) months prior to the expiration of the Lease, showing that:
- (1)** The Demised Premises and any improvements thereon do not materially deviate from any requirements of the Environmental Laws, including any licenses, permits or certificates required thereunder;
 - (2)** The Demised Premises property and any improvements thereon do not contain: (i) asbestos in any form; (ii) urea formaldehyde; (iii) items, articles, containers, or equipment which contain fluid containing polychlorinated biphenyls (PCBs); or (iv) underground storage tanks which do not comply with Environmental Laws;
 - (3)** The engineer has identified, and then describes, any Hazardous Materials utilized or maintained on the Demised Premises, the exposure to which is prohibited, limited, or regulated by any Environmental Laws;
 - (4)** If any Hazardous Materials were utilized and maintained on the Demised Premises, the engineer has conducted and submitted a Phase II Environmental

Assessment of the Demised Premises, which documents that the Demised Premises and improvements are free of contamination by Hazardous Materials;

- (5) The engineer has identified and then describes, the subject matter of any past, existing, or threatened investigation, inquiry, or proceeding concerning environmental matters by any federal, state, county, regional or local authority, (the "Authorities"), and describes any submission by Lessee concerning said environmental matter which it intends to give, has been given or should be given with regard to the Demised Premises to the Authorities; and**
 - (6) The engineer includes copies of the submissions made pursuant to the requirements of Title III of the Superfund Amendments and Reauthorization Act of 1986, (SARA) Section 11001 et seq. of Title 42 of the United States Code.**
- G. In the event Lessee should receive a Notice of Environmental Problem, Lessee shall promptly provide a copy to Lessor, and in no event later than seventy-two (72) hours from Lessee's and any tenant's receipt or submission thereof. "Notice of Environmental Problem" shall mean any notice, letter, citation, order, warning, complaint, inquiry, claim, or demand that: (i) Lessee has violated, or is about to violate, any Environmental Laws; (ii) there has been a release, or there is a threat of release, of Hazardous Materials, on the Demised Premises, or any improvements thereon; (iii) Lessee will be liable, in whole or in part, for the costs of cleaning up, remediating, removing, or responding to a release of Hazardous Materials; or (iv) any part of the Demised Premises or any improvements thereon is subject to a lien in favor of any governmental entity for any liability, costs, or damages, under any Environmental Laws, arising from or costs incurred by such government entity in response to a release of a Hazardous Material.**

10.11 INSPECTION AND RIGHT OF INSPECTION (ENVIRONMENTAL)

- A. In the event Lessee receives a Notice of Environmental Problem as defined in Paragraph 10.10G, Lessee shall, within ninety (90) days, submit to Lessor a written report in scope, form and substance, and prepared by an independent, competent and qualified, professional, registered engineer, satisfactory to Lessor, showing that the engineer made all appropriate inquiry consistent with good commercial and customary practice, such that consistent**

with generally accepted engineering practice and procedure, indicating whether any evidence or indication came to light which would suggest there was a release of substances on the Demised Premises which could necessitate an environmental response action, and which describes the Demised Premises compliance with, or lack thereof, and with all applicable Environmental Laws or certificates required thereunder, and Lessee's compliance with the representations and warranties previously set forth in this Lease. After review of the written report, Lessor may require Lessee to submit a written Phase II Environmental Assessment pursuant to provisions set forth in paragraph 10.10A.

- B. Lessor hereby expressly reserves to itself, its agents, attorneys, employees, consultants, and contractors, an irrevocable license and authorization to enter upon and inspect the Demised Premises and improvements thereon, and perform such tests, including without limitation, subsurface testing, soils, and groundwater testing, and other tests which may physically invade the Demised Premises or improvements thereon, as Lessor, in its sole discretion, determines is necessary to protect its interests.

ARTICLE ELEVEN

- 11.01 Lessee agrees to demolish and remove the building located on the Demised Premises within five (5) years from the date hereof, free and clear of all mechanic's liens, claims, charges or unpaid bills capable of being made.
- 11.02 Lessee hereby expressly assumes all responsibility for said building during the term of this Lease, and agrees to defend, indemnify save and keep harmless Lessor, its Commissioners, officers, agents, servants and employees in accordance with the terms of Article 4.01 of this Lease.

IN WITNESS WHEREOF, the METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO has caused this instrument to be executed in triplicate by the Chairman of the Committee on Finance of its Board of Commissioners and attested by its Clerk, and its corporate seal to be hereunto affixed; and Lessee has caused this instrument to be executed in triplicate by its President and attested by its Secretary and its corporate seal to be hereunto affixed all the day and year first above written.

**METROPOLITAN WATER RECLAMATION DISTRICT
OF GREATER CHICAGO**

**By: _____
Frank Avila
Chairman of Committee on Finance**

ATTEST:

Jacqueline Torres, Clerk

CITY OF EVANSTON

By: _____

Title: _____

ATTEST

By: _____

Title: _____

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, _____ Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Frank Avila personally known to me to be the Chairman of the Committee on Finance of the Board of Commissioners of the Metropolitan Water Reclamation District of Greater Chicago, a body corporate and politic, and Jacqueline Torres, personally known to me to be the Clerk of said body corporate and politic, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Chairman of the Committee on Finance and such Clerk, they signed and delivered the said instrument as Chairman of the Committee on Finance of the Board of Commissioners and Clerk of said body corporate and politic, and caused the corporate seal of said body corporate and politic to be affixed thereto, pursuant to authority given by the Board of Commissioners of said body corporate and politic, as their free and voluntary act and as the free and voluntary act and deed of said body corporate and politic, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this _____ day of _____, A.D. 20 ____.

Notary Public

My Commission expires:

APPROVED AS TO FORM AND LEGALITY:

Head Assistant Attorney

General Counsel

APPROVED:

Executive Director

RECEIVED:

Fee _____

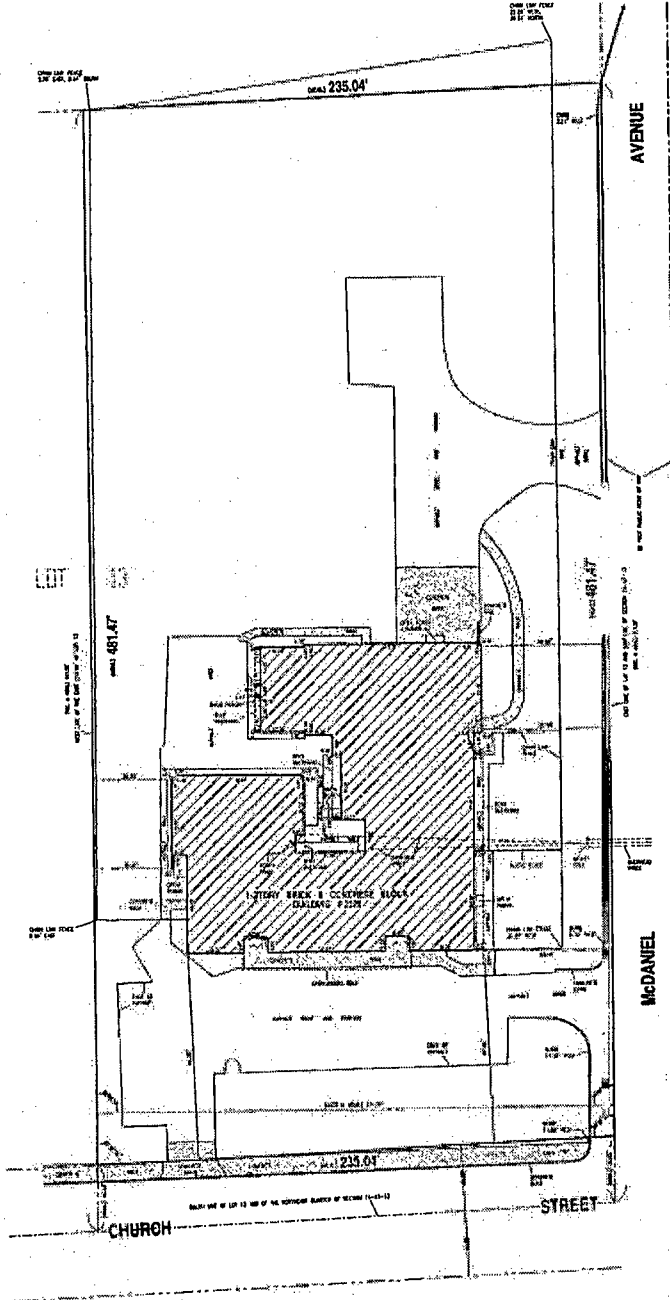
Insurance _____

Bond _____

PLAT of SURVEY

LEGAL DESCRIPTION

THE EAST 834.84 FEET OF LOT 13 OF COUNTY CLERK'S DIVISION OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPTING THE EASTERN CHURCH STREET) CONTAINING 2.58 ACRES, MORE OR LESS, AND BEING SITUATED IN COOK COUNTY, ILLINOIS.
COMMONLY KNOWN AS: 2525 CHURCH STREET, EVANSTON, ILLINOIS.



NOTE:
Area = 112,000 sq. ft.

GENERAL NOTE:

All information provided to the surveyor is shown or noted herein.

The description on this plat was provided to us by the client, and does not guarantee ownership, and should be compared to your Deed, Abstract, or Certificate of Title.

All building restrictions, building lines and easements may or may not be shown, check your Deed, Abstract, Title Report, and local ordinances, no responsibility is assumed by Surveyor.

Connect all points before building by name and report any discrepancy at once.

Dimensions are shown in feet and decimal parts thereof, no dimension is to be assumed by scaling.

B.H. SUHR & COMPANY, INC.	
SURVEYOR	PROFESSIONAL REGISTRATION NO.
DATE	OFFICE
LOCATION	SECTION
OWNER	BY

B.H. SUHR & COMPANY, INC.
 17-127
 CITY OF EVANSTON LAW DEPARTMENT

FIELD MEASUREMENTS COMPLETED JULY 11, 1917

FILED IN COUNTY OF COOK

This is to certify that a survey of the above described property was performed in accordance with the laws of Illinois and that the same was correctly made and shown to the satisfaction of the Surveyor.

Surveyed and shown to the satisfaction of the Surveyor on July 15, 1917

By: [Signature]
 County Register of Cook County

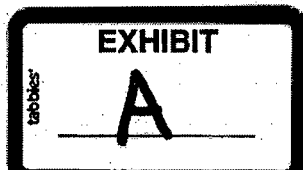


EXHIBIT A

LEGAL DESCRIPTION

THE EAST 234.84 FEET OF LOT 13 OF COUNTY CLERK'S DIVISION OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPTING THEREFROM CHURCH STREET) CONTAINING 2.58 ACRES, MORE OR LESS, AND BEING SITUATED IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 2525 CHURCH STREET, EVANSTON, ILLINOIS.

McCormick Blvd.

North Shore Channel

Evanston, Ill.

Church Street

Parcel 3.04

EXHIBIT

B

tabbles



GREEN INFRASTRUCTURE PROGRAM INFORMATION SHEET

The District offers all prospective tenants that are awarded leases through competitive bidding the opportunity to participate in the District's Green Infrastructure Program. Participation is voluntary for all private non-governmental entities. Under the program, private entities can receive a credit equal to \$0.50 on the \$1.00, up to 10% of the annual rent owed to the District, capped at the first 10 years of the lease, for expenditures related to pre-approved green infrastructure. To obtain such a credit, simply:

- 1) Fill out the *Green Infrastructure ("GI") Program Form* that is included with this information sheet.
- 2) Upon being awarded the lease by the District's Board of Commissioners, promptly submit the form by mail or e-mail to:

Metropolitan Water Reclamation District of Greater Chicago
 Engineering Department, Local Sewers Section
 111 E. Erie St., 6th Floor
 Chicago, Illinois 60611
 Attn: Dan Felted, Principal Civil Engineer
felted@mwrdd.org

with a copy to:

Metropolitan Water Reclamation District of Greater Chicago
 Law Department, Real Estate Division
 100 E. Erie St., 3rd Floor
 Chicago, Illinois 60611
 Attn: Christopher Murray, Senior Attorney
christopher.murray@mwrdd.org

- 3) Once signed or stamped by the District's Engineering Department, promptly submit the approved form to the District's Law Department, Real Estate Division, so that it may be attached as an exhibit to the lease. For participants in this voluntary program, the form must be approved by the District before the lease can be signed.
- 4) Once the lease is fully executed and upon occupancy, install and maintain green infrastructure on your leasehold (or other approved location in the same municipality) in the manner provided for in your approved form.
- 5) After green infrastructure is installed, promptly submit a written letter requesting the amount of credit that should be applied towards your annual rent. The letter should be delivered to the District's Law Department, Real Estate Division. Be sure to attach invoices itemizing all green infrastructure expenditures for which you are seeking credit towards payment of your annual rent. If the credit requested exceeds 10% of your annual rent, it will be applied, if approved, towards the next year's rent, and so forth, for up to the first 10 years of the lease, until the amount approved is fully credited. Credit will only be given for expenditures pertaining to pre-approved green infrastructure.

You will need to consult your lease agreement for a full list of terms and conditions. Please note in particular that no credit will be given for preexisting site conditions, nor for expenditures pertaining to green infrastructure that is required to be installed under the District's Watershed Management Ordinance or otherwise required by law or District policy. Also, a *Green Infrastructure ("GI") Program Annual Certification* will have to be filled out, signed, and submitted to the District's Law Department, Real Estate Division, on each anniversary of the date of the lease. The *Certification* is also included with this information sheet.

GI-2
 Metropolitan Water Reclamation District of Greater Chicago
 Green Infrastructure ("GI") Program Form
 (Complete All Applicable Sections Fully)

- 1) Lessee's Name: _____
- 2) Leased Premises: •Address: _____ •District Channel Atlas Parcel No.: _____
 Street City/Township
 •Approx. # of acres: _____ •Approx. surface area of impervious surfaces (e.g., paved surfaces, rooftops): _____ sq. ft.
- 3) Location of GI: (check one box) on Leased Premises off-site both

- If off-site, address where GI will be installed: _____
 Street City/Township Permanent Index Number
- 4) Do you have Green Infrastructure Project Plans stamped by a licensed professional engineer? Yes No
- If yes, enclose your Project Plans with this form. The Plans must specify the maximum available retention capacity of the project in any individual storm event, and the calculations used to determine the project's retention capacity in gallons.
 •If no, refer to the chart below to determine your GI project's Design Retention Capacity ("DRC"). A site drawing that adequately depicts the location of all buildings, impervious surfaces, and proposed GI, as well as a cross-section detail of the proposed GI, must be enclosed with this form.

Technology	Quantity	Unit	DRC (in gallons)
Rain Gardens	100	sq. ft.	200
Native Plants/Landscaping	100	sq. ft.	150
Stormwater Trees	100	Trees	1000
Porous Pavement	100	sq. ft.	1000
Bio-Swales	100	sq. ft.	500
Green Roofs	100	sq. ft.	300
Greenways	100	sq. ft.	63

- 5) Technology, Quantity, and DRC in gallons to be provided: (check each applicable box and fill in each corresponding blank)
- | | | |
|--|---------------------------|----------------------|
| <input type="checkbox"/> Rain Gardens | (Quantity: _____ sq. ft.) | (DRC: _____ gallons) |
| <input type="checkbox"/> Native Plants/Landscaping | (Quantity: _____ sq. ft.) | (DRC: _____ gallons) |
| <input type="checkbox"/> Stormwater Trees | (Quantity: _____ trees) | (DRC: _____ gallons) |
| <input type="checkbox"/> Porous Pavement | (Quantity: _____ sq. ft.) | (DRC: _____ gallons) |
| <input type="checkbox"/> Bio-Swales | (Quantity: _____ sq. ft.) | (DRC: _____ gallons) |
| <input type="checkbox"/> Green Roofs | (Quantity: _____ sq. ft.) | (DRC: _____ gallons) |
| <input type="checkbox"/> Greenways | (Quantity: _____ sq. ft.) | (DRC: _____ gallons) |
| <input type="checkbox"/> Other (specify): _____ | (Quantity: _____ sq. ft.) | (DRC: _____ gallons) |

- 6) **FOR PUBLIC (GOVERNMENTAL) LEASES ONLY: Calculations:** Public lease tenants must provide volume control storage equal to the capture of 1-inch of runoff (or .083 feet) from impervious surfaces located or to be located on the Leased Premises or 5,000 gallons per leased acre, whichever results in greater retention. All public lease tenants must fill in the blanks for each of the following calculations to determine which method results in greater retention:

•Method 1 = _____ sq. ft. of impervious surfaces x 0.083 ft. x 7.48 gallons per cubic foot = _____ gallons

•Method 2 = _____ acres being leased x 5,000 gallons per leased acre = _____ gallons

- 7) **FOR PRIVATE (NON-GOVERNMENTAL) LEASES ONLY: Credit:** The District offers its private lease tenants a credit equal to 50¢ on the dollar, up to 10% of the annual rent owed, for the first 10 years of their lease with the District for expenditures pertaining to approved GI. Consult your lease agreement for a full list of exclusions and reservations. All requests for credit must a) be in writing, b) state the total credit requested in a given rental year, c) be accompanied by official invoices indicating the amount of such expenditures, and d) be promptly delivered to the Metropolitan Water Reclamation District of Greater Chicago, 100 East Erie, 3rd floor, Chicago, IL 60611, Attn: Law Department, Real Estate Division.

- 8) **Watershed Management Ordinance ("WMO"):** GI provided herein must be above and beyond what is required under the District's WMO. Article 503 of the WMO, in particular, requires non-residential development or redevelopment greater than 1/2 acre to provide volume control storage for the first inch of runoff from newly created impervious surfaces. If the WMO requirements apply to the leased premises, provide:

•WMO Permit No(s): _____ •Volume Control in Gallons Required under WMO: _____

- 9) Completion date when all GI will be installed: ____/____/20____

CERTIFICATION: I certify that I am an authorized representative of Lessee, that the information contained in this form and its attachments is true and correct to the best of my knowledge, and that the GI referenced herein is not a pre-existing site condition nor required by federal, state, or local law, including the District's ordinances and policies other than the GI provisions contained in the District's Comprehensive Land Use Policy.

Date: _____ Signature: _____
 Printed Name: _____
 Title: _____

For MWRD Use Only:	
The tenant is authorized to install GI at the location, and in the manner, indicated on this form and its attachments.	
Approved By: _____	Date: _____

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

Green Infrastructure ("GI") Program Annual Certification

1) Lessee's Name: _____

2) Date of Lease Agreement: ____/____/20____

3) Check box indicating where GI was installed: (check one)

Leased Premises Off-Site

4) Address of Leased Premises or Off-Site GI:

Street	City/Township	District Channel Atlas Parcel No. or PIN
--------	---------------	--

5) Please attach to this Certification photographs taken within the last six months depicting the approved green infrastructure installed on the leased premises or off-site location.

As an authorized representative of Lessee, I hereby certify that the green infrastructure that was installed at the above-referenced premises as part of the District's Green Infrastructure Program continues to this day to be maintained in as good a condition as it was when it was originally installed pursuant to the Green Infrastructure Program form submitted by Lessee, or its predecessor, that was approved by the District. I further certify that the photographs attached to this Certification truly and accurately depict such green infrastructure, and that the photographs were taken within the six months preceding the date of this Certification.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

The District's Waterway Strategy

A. District Lands Contiguous to Waterways

1. **Setback Requirements:** It is the intent of the District to have a well-maintained and attractive river edge of all of the property it owns adjacent to waterways, including the Chicago River, the Chicago Sanitary & Ship Canal (a.k.a. Main Channel), the North Shore Channel, and the Cal-Sag Channel. In order to accomplish this goal, the District requires a waterway edge easement to be included in its land leases. Unless otherwise authorized by the Board of Commissioners, the width of the easement shall be a minimum of 60 feet and up to 100 feet, when feasible. Such width shall be measured from the edge of the water at normal water levels, then inward across the leased premises at a 90 degree angle, or best approximation thereof, from the water's edge. No lessee of the District shall cause, or allow to be caused, any impediment to be constructed or placed upon such easement, whether it be a permanent structure such as a building, or moveable objects such as unsightly materials and debris. Buildings existing at the time this policy is enacted shall be grandfathered in.
2. **Bank Stabilization and Landscaped Visual Screening.** All lessees shall be responsible for bank stabilization and the construction and maintenance of a landscaped visual screen that effectively screens the leased premises from the viewpoint of the waterway edge easement. The recommended landscaped visual screen, whenever possible, shall consist of native vegetative cover. In the event that site development necessitates removal of existing vegetative cover, the lessee shall be required to promptly reestablish native vegetative cover in the same quantities as those removed during the development.
3. **Penalties:** Any lessee's failure to comply with the requirements contained in subsections A(1) and A(2) above shall constitute a breach of the lease agreement by the lessee and shall be grounds for the District, at its option, to terminate the lease agreement. The District shall also have the right to recover from the lessee any and all reasonable costs associated with correcting each such violation, including, but not limited to, remediation costs to have the violations corrected, as well as court costs and attorneys' fees for filing an action in circuit court seeking an order to have the lease agreement terminated on these grounds.

B. North Shore Channel – Additional Requirements

1. **Limitations on Use of Lands Contiguous to North Shore Channel:** All District lands contiguous to either side of the North Shore Channel, starting from the south at Devon Avenue and continuing north to, and including, Wilmette harbor, shall be dedicated and used exclusively as open green space and public recreational use.
2. **Special Lease Conditions:** All District leases pertaining to lands contiguous to the North Shore Channel shall require continuous trails, boat access, and bank stabilization; however, in the case of renewed District leases to public agencies, the stated policy shall apply only to the extent it is economically feasible and consistent with existing public uses.

- C. **Exceptions:** any use of District land that is prohibited by or inconsistent with the terms of this Paragraph 3.4 shall be permitted only upon one or more of the following conditions:

1. **Uses Permitted Under Pre-Existing Leases:** The use is authorized by the terms of an unexpired lease agreement with the District that was entered into before the date of passage of this Comprehensive Land use Policy. Such use shall continue to be permitted until such time as the lease agreement expires or is terminated, unless otherwise extended by the Board of Commissioners.
2. **Variances:** the use is authorized by a variance granted by the Board of Commissioners whenever, and to the extent, it deems that the variance is necessary and in the best interests of the District considering the location, existing topography and vegetation, and use or proposed use of the leased premises. All variances shall be granted only by approval of the Board of Commissioners at its sole discretion, with recommendation by the Executive Director.
3. **Waterborne Commerce:** The use is for the purpose of waterborne commerce pursuant to a lease agreement with the District. In such instances, no variance from the Board of Commissioners is necessary. However, the lessee shall, to the extent possible, construct and maintain a docking facility compatible with the visual intent of the scenic easement, with the District maintaining the sole discretion to determine whether compatibility has been achieved.